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BEFORE THE ARIZONA CORPORATION COMMISSION

19

COMMISSIONERS:

JEFF HATCH-MILLER - Chairman

WILLIAM A. MUNDELL

MIKE GLEASON

KRISTIN K. MAYES

BARRY WONG

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AZ CORP COMMISSION  
DOCUMENT CONTROL

In the matter of:

Docket No. S-20437A-05-0925

Reserve Oil & Gas, Inc., a Nevada corporation  
3507 North Central Avenue, Suite 503  
Phoenix, Arizona 85012

RESPONDENTS' MOTION TO  
PERMIT TELEPHONIC TESTIMONY  
OF SCOTT INGELL

Allen and Jane Doe Stout, Sr., husband and wife  
1309 West Portland Street  
Phoenix, Arizona 85007-2102

Arizona Corporation Commission

DOCKETED

NOV -7 2006

Allen and Jane Doe Stout, Jr., husband and wife  
1309 West Portland Street  
Phoenix, AZ 85007-2102

Respondents.

DOCKETED BY

nr

NOW COME the Respondents, Reserve Oil & Gas, Inc., Allen C. Stout, Eugenia Stout, and Allen L. Stout, file this, their Motion to Permit Telephonic Testimony of Scott Ingell and, in support thereof, respectfully show the Administrative Law Judge as follows:

PRELIMINARY STATEMENT

Respondents have amended their Witness and Exhibit List to include Scott Ingell.<sup>1</sup> Depending on the testimony the Division is allowed to present at the Hearing of this matter, Respondents may call Mr. Ingell either as a rebuttal witness or in their case in chief. Mr. Ingell should be allowed to testify telephonically because requiring him to come to Phoenix when his testimony is contingent on evidence presented by the Division would result in an undue burden on Mr. Ingell. Importantly, the Division has already interviewed Mr. Ingell;<sup>2</sup> therefore, the Division will suffer no prejudice if Mr. Ingell is allowed to testify telephonically. See A.A.C. R2-19-114,

<sup>1</sup> See, Respondents' Supplement List of Witnesses and Exhibits.

<sup>2</sup> This is not the case with respect to Respondents' opposition to the Division's Motion to Allow Telephonic Testimony of Mr. Smith. For this reason, Respondents have requested that this Hearing be continued to allow Respondents' counsel to depose Mr. Smith.

1 *see also, In re MH*, 211 Ariz. 255, 120 P.3d 210 (App. 2005). Respondents, therefore, request that  
2 Mr. Ingell be allowed to testify telephonically.

3 I.

4 **ALLOWING MR. INGELL THE RIGHT TO TESTIFY TELEPHONICALLY**  
5 **WILL PREVENT AN UNDUE BURDEN ON INGELL AND WILL NOT**  
6 **RESULT IN UNDUE PREJUDICE TO THE DIVISION**

7 Mr. Ingell's testimony in this matter is contingent on the evidence proffered by the  
8 Division, and the evidence admitted or precluded at this proceeding. Depending on the rulings on  
9 pending written Motions and on objections at the hearing, Mr. Ingell's proposed testimony may, or  
10 may not, be required either for rebuttal or, in Respondents' case in chief. Allowing Mr. Ingell to  
11 testify telephonically, if needed, will prevent the witness from making a trip to Arizona from his  
12 home in Tennessee. Given the recent admission by the Division in its Response to Respondents'  
13 Motion to Prelude Hearsay Testimony, that the Division does intend to introduce certain hearsay  
14 testimony related to Mangurian, it may be necessary to call Mr. Ingell as a witness. Rulings on  
15 certain of the Respondents' Motions or objections may obviate this need.

16 Requiring Mr. Ingell to plan a trip to Phoenix to Tennessee on such short notice would  
17 cause an undue burden on Mr. Ingell. In addition to the high cost of such a short notice trip,  
18 Mr. Ingell would not have time to sufficiently arrange his affairs to be present. *See*, A.A.C.  
19 R2-19-114.

20 In addition, allowing Mr. Ingell to testify telephonically will not prejudice the Division.  
21 The testimony of Mr. Ingell is contingent on what evidence the Division is allowed to introduce.  
22 Importantly, the Division has already taken advantage of the opportunity to interview Mr. Ingell.  
23 Mr. Ingell's testimony would not come as a surprise to the Division.

24 Based on these factors, Mr. Ingell should be allowed to testify telephonically at the hearing  
25 of this matter.

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II.

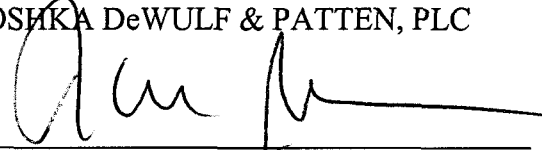
CONCLUSION

For each of the foregoing reasons, Respondents respectfully request that Mr. Ingell be allowed to appear telephonically should his testimony prove necessary at the hearing of this matter.

RESPECTFULLY SUBMITTED this 6th day of November, 2006.

ROSHKA DeWULF & PATTEN, PLC

By

  
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ORIGINAL and thirteen copies of the foregoing  
filed this 6th day of November, 2006 with:

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Copy of the foregoing hand-delivered  
this 6th day of November, 2006 to:

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